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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,869	04/16/2001	Mark Vange	CIRC013	5581
25235	7590	09/20/2005	EXAMINER	
HOGAN & HARTSON LLP ONE TABOR CENTER, SUITE 1500 1200 SEVENTEENTH ST DENVER, CO 80202			LIN, WEN TAI	
			ART UNIT	PAPER NUMBER
			2154	

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/835,869

Applicant(s)

VANGE ET AL.

Examiner

Wen-Tai Lin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18, 20, 23, 24, 26 and 27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 27 is/are allowed.
- 6) ☒ Claim(s) 1-18, 20, 23, 24, and 26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1-18, 20, 23-24 and 26-27 are presented for examination. Claims 19, 21-22 and 25 are canceled.
2. The text of those sections of Title 35, USC code not included in this action can be found in the prior Office Action.

### ***Claim Rejections - 35 USC § 102***

3. Claims 1-18, 20, 23-24 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by Datari [U.S. Pat. No. 6418169].
4. As to claims 1 and 4-5, Datari teaches the invention as claimed including: a method for prioritizing information within a network comprising the steps:
  - receiving at least one set of information within a network [Abstract];
  - appending at least one priority parameter to each of the at least one set of information [col.9, lines 10-15; e.g., the source and destination identifiers (e.g., IP addresses), which are used as priority parameters, are inherently appended in the data packets];
  - associating a priority value with each of the at least one set of information based on the at least one priority parameter;

tracking the priority values associated with each of the at least one set of information requested by a user; and

transmitting the at least one set of information across the network at least partially based on the priority value of each of the at least one set of information requested by the user [e.g., col.8, line 19 – col.9, line 67].

5. As to claims 2-3, Datari teaches that the at least one priority value is at least partially based on one or more values of a set of priority parameter types, the set of priority parameter types comprising: a connection identification; a user identification; a content identification; a session identification; a content type; a website identification; a domain content element type; and a type of connection [col.9, lines 7-30].

6. As to claim 6, Datari further teaches that the network comprises: at least one intermediary server between at least one client and at least one originating server, wherein the intermediary server is responsible for determining at least one priority value for the set of information [e.g., 43, Fig. 1; col.7, lines 57-67].

7. As to claim 7, Datari further teaches that the at least one intermediary server receives a set of priority information via an out-of-band control system [col.8, line 44-col.9, line 6; e.g., the priority profile may be transmitted to a designated network node via RSVP protocol]

8. As to claims 8-10, Datari further teaches that the network comprises:

at least one front-end server computer [e.g., 109, Fig.8] operatively connected to at least one client [e.g., 12, Fig.8];

at least one back-end server computer [e.g., 130, 135, Fig.8] operatively connected to at least one server and to the at least one front-end server computer [e.g., col.8, lines 54-64; i.e., for assuring QoS, any node in a network may be assigned the duty of evaluating priority associated with the packets passed therewith], wherein the connection to the front-end server computer is implemented over a heterogeneous network [note that the Internet is a heterogeneous network], wherein the at least one front-end server computer is responsible for determining at least one priority value for the at least one set of information transmitted to a back-end server and the at least one back-end server computer is responsible for determining at least one priority value for the at least one set of information transmitted to a front-end [e.g., col.3, lines 14-28; col.4, line 63 – col.5, line 37; note that the method applies to bi-directional broadcast data].

9. As to claim 13, Datari teaches the invention as claimed including: a method of transmitting requests from a client [e.g., 12, Fig.8] to a request-specified origin server [e.g., 109 or 102 of Fig.8] comprising the acts of:

sending one or more requests from one or more client computers, the requests designating an origin server; determining for each request whether a request priority parameter is associated with the request; assigning the request priority parameter to a first priority value; and transmitting the requests to the origin server in an order based upon the priority values [col.6, lines 38-61];

generating a response to the request using the origin server;

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determining for the response whether a response priority parameter is associated with the response; marking the generated response with priority information; assigning both the request priority information and the response priority parameter to a second priority value; and transmitting the response to the requesting client computers according to the second priority value [col.8, lines 24-36 and 54-64; col.9, lines 37-53; note that the priority value can be derived as a combination of communication link, protocol or function characteristics].

10. As to claims 14-15, Datari further teaches that the priority parameter is included with the request or determined by performing a lookup in a table [col.2, lines 43-63; e.g., priority parameters such as source and destination identifiers are inherently contained in a request packet, while the priority parameters contained in the priority profile, which comprises a database, can be retrieved via table lookup].

11. As to claim 16, Datari further teaches that the priority parameter is obtained from the origin server [col.2, lines 59-62].

12. As to claim 17, Datari further teaches that the step of sending comprises sending the request with an associated domain-specific user priority parameter [note that the IP address identifying the destination server in a request packet is, by default, a domain-specific priority parameter for looking up a corresponding parameter defined in the priority profile].

13. As to claim 18, Datari further teaches that the step of sending comprises sending the request with an associated content priority parameter [e.g., the function type characteristics listed at col.9, lines 17-23 are content-specific parameters and are reflected in the requested content].

14. As to claims 11-12, 20, 23-24 and 26, since the features of these claims can also be found in claims 1-10 and 13, they are rejected for the same reasons set forth in the rejection of claims 1-10 and 13 above.

15. Claim 27 is allowable.

16. A shortened statutory period for response to this action is set to expire 3 (three) months and 0 days from the mail date of this letter. Failure to respond within the period for response will result in ABANDONMENT of the application (see 35 U.S.C. 133, M.P.E.P. 710.02, 710.02(b)).

### ***Conclusion***

**Examiner note:** Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the contest of the passage as taught by the prior art or disclosed by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wen-Tai Lin whose telephone number is (571)272-3969. The examiner can normally be reached on Monday-Friday (8:00-5:00) .

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571)272-3964. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:


(571) 273-8300 for official communications; and

(571) 273-3969 for status inquires draft communication.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wen-Tai Lin

September 14, 2005

  
9/14/05